IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1688 of 1999

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29-07-1999 in WP NO. 2041 of 1992 on the file of the High Court.)

Between:

T.Prakasa Rao s/o Parthadarathy Ram Mohan Ramdas, Advocate, Dwarakanagar, Visakhapatnam.

..... APPELLANT/2nd respondent

AND

1. Hindustan Zinc Limited, Visakhapatnam rep., by its General Manager, (Admn) Sri P.V.R.Prasad (Petitioner)

2. Industrial Tribunal-cum-Labour Court,Visakhapatnam (1st respondent)

.....RESPONDENT

Counsel for the Appellant: DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.1: Mr.K.Srinivasa Murthy

Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following :

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

Challenge in this appeal is to the order of a learned single Judge of this Court setting aside the award of the Industrial Tribunal-cum Labour Court, Visakhapatnam dated 3-12-1991.

Background facts, filtering out unnecessary details, are as under.

The 1st respondent-Management called for applications for the post of Junior Charge Head along with other posts by issuing an advertisement in the newspapers and intimation to the Employment Exchange, for which the appellant applied. But basing on the performance in the interview and certificates produced by him, he was appointed as Operator. Subsequently, the 1st respondent-Management received some complaints against the appellant that he obtained employment by producing forged and false certificates. In that connection, a preliminary enquiry was conducted and certain charges were framed. Subsequently, disciplinary enquiry was conducted and it reveals that the appellant produced false and fabricated certificates, which leads to removal of the appellant from service.

Feeling aggrieved, the appellant raised an Industrial Dispute, questioning the order of dismissal. The Labour Court *vide* its award modified the punishment imposed upon the appellant and ordered reinstatement of the appellant without back wages and with continuity of service on the pretext of humanitarian consideration. Challenging the same, the present writ appeal has been filed.

The learned single Judge, after scrutinizing the entire material on record and on hearing the rival contentions of both the parties, observed that the modification of punishment by the Labour Court is not in accordance with the

legislative mandate enshrined in Section 11-A of the Industrial Disputes Act, 1947 (for short 'the Act') and set aside the Award by allowing the writ petition.

Heard the learned counsel appearing on behalf of both the parties.

Contextual facts depict that there is no dispute about the procedure followed in the enquiry. The core question involved in this appeal is as to whether the Labour Court has the discretion to modify the punishment imposed upon the appellant under Section 11-A of the Act. It can certainly modify the punishment, if it comes to the conclusion that the punishment imposed by the Management is disproportionate to the gravity of misconduct. But the Labour Court had recorded a finding that production of false and forged certificates with respect to education qualifications itself is a misconduct under Order 16 (4) (C) of the Factory Standing Orders and as such it ought not have interfered with the order of dismissal passed against the appellant as the charges are grievous in nature.

The fact remains that the appellant had produced false and fabricated certificates. The appellant did not choose to file any piece of evidence contradicting the version of 1st respondent company. In the absence of such evidence, we find no substance in this appeal and the impugned order passed by the learned single Judge does not suffer from any illegality and material irregularity.

In the background of legal and factual position indicated above, the appeal fails and deserves to be dismissed.

The writ appeal is accordingly dismissed. No costs.

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T.MEENA KUMARI, J

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P.LAKSHMANA REDDY, J

05.07.2005

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To

1. General Manager (Admn), Hindustan Zinc Limited, Visakhapatnam

2.Industrial Tribunal-cum-Labour Court,Visakhapatnam (1st respondent)

3. 2 CCs to the GP for Labour (OUT), High Court buildings, Hyderabad.

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